

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No:
	:	
v.	:	VIOLATIONS:
	:	
ROBERTO A. MINUTA,	:	18 U.S.C. §§ 1512(c)(2), 2
Defendant.	:	(Obstruction of an Official Proceeding and
	:	Aiding and Abetting)
	:	
	:	18 U.S.C. §§ 1752(a)(1)
	:	(Restricted Building or Grounds)
	:	
	:	18 U.S.C. §§ 1512(c)(1)
	:	(Tampering with Documents or
	:	Proceedings)

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Marc Esposito, being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. This Affidavit is submitted in support of a Criminal Complaint charging Roberto A. Minuta with violations of 18 U.S.C. §§ 2, 1512(c)(1), 1512(c)(2), and 1752(a)(1) (the “Subject Offenses”). This Affidavit sets forth evidence establishing probable cause that Minuta attempted to, and did, obstruct the United States Congress’s affirmation of the Electoral College vote regarding the results of the 2020 U.S. Presidential Election, and that he committed other related federal crimes in furtherance of that purpose, as set forth below.

2. I respectfully submit that this Affidavit establishes probable cause to believe that Minuta:

- a. Corruptly obstructed, influenced, and impeded an official proceeding, in violation of 18 U.S.C. § 1512(c)(2), (2);

- b. Entered and remained in any restricted building and grounds without lawful authority, and knowingly, and with intent to impede and disrupt the orderly conduct of Government business and official functions, engaged in disorderly and disruptive conduct, in violation of 18 U.S.C. §§ 1752(a)(1); and
- c. Corruptly altered, destroyed, mutilated, or concealed a record, document, or other object, and attempted to do so, with the intent to impair the object's integrity or availability for use in an official proceeding, in violation of 18 U.S.C. § 1512(c)(1).

3. Specifically, Minuta was in Washington, D.C., on January 6, 2021, equipped with military-style attire and gear, including apparel emblazoned with a crest related to the Oath Keepers Militia. Later, Minuta and others affiliated with the Oath Keepers breached the U.S. Capitol grounds, where Minuta aggressively berated and taunted U.S. Capitol police officers responsible for protecting the Capitol and the representatives inside of the Capitol. Minuta then attacked the U.S. Capitol and obstructed Congressional proceedings with other attackers on January 6, 2021. Finally, on January 13, 2021, the week after he attacked the Capitol and after much media reporting on law enforcement's investigation to bring the Capitol rioters to justice, Minuta deleted his Facebook account of over thirteen years.

BACKGROUND OF AFFIANT

4. As a Special Agent with the Federal Bureau of Investigation ("FBI"), I am empowered by law to conduct investigations, make arrests, and execute and serve search and arrest warrants for offenses enumerated in Title 21 and Title 18 of the United States Code. I have received training and gained experience in a variety of criminal laws and procedures, including those involving drug distribution, white collar crime, and crimes of violence. Through my training,

education and experience, I have become familiar with the manner in which criminal activity is carried out, and the efforts of persons involved in such activity to avoid detection by law enforcement. In addition to my regular duties, I am currently tasked with investigating criminal activity that occurred in and around the U.S. Capitol grounds on January 6, 2021.

5. Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates.

BACKGROUND

The 2020 United States Presidential Election and the Official Proceeding on January 6, 2021

6. The 2020 United States Presidential Election occurred on November 3, 2020.

7. The United States Electoral College is a group required by the Constitution to form every four years for the sole purpose of electing the president and vice president, with each state appointing its own electors in a number equal to the size of that state’s Congressional delegation.

8. On December 14, 2020, the presidential electors of the U.S. Electoral College met in the state capital of each state, and in the District of Columbia, and formalized the result of the 2020 U.S. Presidential Election: Joseph R. Biden Jr. and Kamala D. Harris were declared to have won sufficient votes to be elected the next president and vice president of the United States.

9. On January 6, 2021, a Joint Session of the United States House of Representatives and the United States Senate (“the Joint Session”) convened in the United States Capitol building (“the Capitol”) to certify the vote of the Electoral College of the 2020 U.S. Presidential Election (“the Electoral College vote”).

The Attack at the U.S. Capitol on January 6, 2021

10. The Capitol is secured 24 hours a day by United States Capitol Police. The Capitol Police maintain permanent and temporary barriers to restrict access to the Capitol exterior, and only authorized individuals with appropriate identification are allowed inside the Capitol building.

11. On January 6, 2021, at approximately 1:00 p.m., the Joint Session convened in the Capitol building to certify the Electoral College vote. Vice President Michael R. Pence, in his constitutional duty as President of the Senate, presided over the Joint Session.

12. A large crowd began to gather outside the Capitol perimeter as the Joint Session got underway. Crowd members eventually forced their way through, up, and over Capitol Police barricades and advanced to the building's exterior façade. Capitol Police officers attempted to maintain order and stop the crowd from entering the Capitol building, to which the doors and windows were locked or otherwise secured. Nonetheless, shortly after 2:00 p.m., crowd members forced entry into the Capitol building by breaking windows, ramming open doors, and assaulting Capitol Police officers. Other crowd members encouraged and otherwise assisted the forced entry. The crowd was not lawfully authorized to enter or remain inside the Capitol, and no crowd member submitted to security screenings or weapons checks by Capitol Police or other security officials.

13. Shortly thereafter, at approximately 2:20 p.m., members of the House and Senate (including Vice President Pence)—who had withdrawn to separate chambers to resolve an objection—were evacuated from their respective chambers. The Joint Session and the entire official proceeding of the Congress was halted while Capitol Police and other law-enforcement officers worked to restore order and clear the Capitol of the unlawful occupants.

14. Later that night, law enforcement regained control of the Capitol. At approximately 8:00 p.m., the Joint Session reconvened, presided over by Vice President Pence, who had remained hidden within the Capitol building throughout these events.

15. In the course of these events, approximately 81 members of the Capitol Police and 58 members of the Metropolitan Police Department were assaulted. Additionally, many media members were assaulted and had cameras and other news-gathering equipment destroyed, and the Capitol suffered millions of dollars in damage—including broken windows and doors, graffiti, and residue of various pepper sprays, tear gas, and fire extinguishers deployed both by crowd members who stormed the Capitol and by Capitol Police officers trying to restore order.

The Oath Keepers Militia

16. Law enforcement and news-media organizations observed that members of an organization known as the Oath Keepers were among the individuals and groups who forcibly entered the Capitol on January 6, 2021. The Oath Keepers are a large but loosely organized collection of individuals, some of whom are associated with militias. Some members of the Oath Keepers believe that the federal government has been coopted by a cabal of elites actively trying to strip American citizens of their rights. Though the Oath Keepers will accept anyone as members, they explicitly focus on recruiting current and former military, law enforcement, and first-responder personnel. The organization's name alludes to the oath sworn by members of the military and police to defend the Constitution "from all enemies, foreign and domestic." The Oath Keepers are led by Person One.

17. On January 4, 2021, Person One posted an article to the Oath Keepers website encouraging Oath Keeper members and affiliates to go to Washington, D.C., for the events of January 5-6, 2021, stating: "It is CRITICAL that all patriots who can be in DC get to DC to stand

tall in support of President Trump’s fight to defeat the enemies foreign and domestic who are attempting a coup, through the massive vote fraud and related attacks on our Republic. We Oath Keepers are both honor-bound and eager to be there in strength to do our part.”

STATEMENT OF FACTS SUPPORTING PROBABLE CAUSE

18. Roberto A. Minuta is a 36-year-old recent resident of Hackettstown, New Jersey. Evidence uncovered in the course of the investigation demonstrates that Minuta was in Washington, D.C., on January 6, 2021, and forcibly stormed the U.S. Capitol equipped with military-style gear for the purpose of obstructing the Congressional proceeding occurring that day. Evidence also demonstrates that one week after he participated in forcibly storming the Capitol, Minuta deleted a Facebook account he had maintained for 13 years to conceal his involvement in these offenses.

Roberto Minuta in Washington, D.C. on January 6, 2021

19. Minuta appears in a number of publicly-available videos in which he is identified as Roberto Minuta. During the week of May 24, 2020, for example, Minuta participated in a video interview during which he made public statements about a Newburgh, New York, tattoo shop he owns, and his plans to open that shop in defiance of state executive orders related to the Covid-19 pandemic.¹ Public records indicate that Roberto A. Minuta owns the tattoo shop that he and others discuss in the interview. Person One also joined the interview and commended Minuta for his planned unlawful actions in New York. Referring to Minuta, Person One said, “I’m going to designate him as a lifetime Oath Keeper. And I’m not going to say we’re going to comp him a

¹ See <https://www.gatekeepersonline.com/post/special-broadcast-ny-civil-defiance-battlefront-southgate> (last accessed on February 23, 2021).

lifetime membership, because he earned it. He's earning it right now. So, we're honored to have him as a member of Oath Keepers."

20. Later, on May 30, 2020, Minuta is seen and identified by name in a video recorded at Minuta's tattoo shop in Newburgh, New York.² Minuta is standing inside his shop and wearing a black neck gaiter with part of Minuta's tattoo shop name showing, and a black shirt with yellow letters on the front that read, "Oath Keeper" and "Oathkeepers.org."



21. On January 5, 2021, records indicate that a vehicle registered to Roberto A. Minuta traveled south along Interstate 295 toward Washington, D.C., and returned north on Interstate 295 toward New Jersey on the evening of January 6, 2021.

22. On the morning of January 6, 2021, publicly-available photographs show individuals wearing Oath Keeper patches on their hats and chests congregated in Washington, D.C. Minuta appears to be one of the individuals present, equipped with an Oath Keepers baseball cap, a tan neck gaiter around his neck, a tactical vest with the Oath Keepers patch, a dark-colored

² See <https://www.youtube.com/watch?v=B3SLE84-NXQ> (last accessed on February 23, 2021).

backpack, and brown tactical gloves. He is circled in red.



Roberto Minuta Harasses Law Enforcement and Attacks the U.S. Capitol on January 6, 2021

23. On January 6, 2021, Minuta and other Oath Keepers attacked the Capitol, forcing a halt to the certification of the Electoral College vote. Records indicate that Minuta is associated with a Verizon device with phone number XXX-XXX-4147. In the morning of January 6, phone number XXX-XXX-4147 called and texted another individual that appears to be associated with the Oath Keepers, and who also stormed the Capitol building on January 6.

24. Photographs and video capture Minuta with other Oath Keepers on the east side of the Capitol, where Minuta aggressively taunted and berated law enforcement officers guarding the Capitol. Minuta can be seen circled in red, stepping toward and waving his arms at law enforcement officers in riot gear guarding the Capitol. Minuta is equipped with the same dark-colored baseball cap, tactical vest with an Oath Keepers patch in the center, tactical gloves, and khaki pants seen in earlier photographs.



25. In another photograph taken at or about the same moment, Minuta is seen from a different angle aggressively addressing law-enforcement officers who have formed a perimeter around an entrance to the Capitol's east side.



26. Minuta wore military attire and other apparel, including hard-knuckle tactical gloves, ballistic goggles, a radio with an ear piece, and possibly bear spray.



27. Continuing to focus on law enforcement, Minuta stormed the Capitol grounds and was photographed standing in a crowd of rioters near a Capitol entrance, filming U.S. Capitol police officers with a mobile cellular phone. Minuta, circled in red, is wearing the same vest and patch, backpack, ballistic goggles, and radio ear-piece seen in the above photographs.



28. Pursuant to legal process, the government obtained records from Verizon, which show that phone number XXX-XXX-4147 is the verified phone number for an account registered to Minuta.

29. Eventually, Minuta unlawfully breached the Capitol building itself. According to records obtained through a search warrant, which was served on Verizon, the cellphone associated with XXX-XXX-4147 was identified as having used a cell site consistent with providing service to a geographic area that includes the interior of the United States Capitol building on January 6, 2021, the day of the attack on the Capitol.

30. Publicly-available photographs also depict Minuta unlawfully inside the Capitol building, as seen below in the red circle with the same ballistic goggles, light-colored hooded sweatshirt, and dark-colored baseball cap as seen above.



31. On February 14, 2021, the New York Times published an article, which used open-source photographs to track the movements of several individuals wearing Oath Keepers paraphernalia and equipment who attacked the Capitol on January 6, 2021.³ One image published by the New York Times appears to depict Minuta inside the Capitol building, wearing the same black baseball hat with yellow letters, ballistic goggles, light-colored hooded sweatshirt, and tactical vest and Oath Keepers patch.

³ See <https://www.nytimes.com/interactive/2021/02/14/us/roger-stone-capitol-riot.html?action=click&module=Spotlight&pgtype=Homepage> (last accessed on February 23, 2021).



32. Video also captured Minuta’s actions as he exited the Capitol building. Minuta can be seen exiting the Rotunda area and holding up a lit mobile cellular device. As Minuta passes through a damaged Capitol building door, Minuta again harasses law enforcement along with other rioters who have now filled the Capitol entrance. Specifically, Minuta yells at an officer, among other things, “All that’s left is the Second Amendment!” while holding up two fingers, apparently referencing the right to keep and bear firearms. Minuta can be seen in the same tactical gear holding his fingers up and circled in red.



33. Soon after the attack, Minuta and other Oath Keepers who breached the Capitol on January 6, 2021, gathered together approximately 100 feet from the Capitol, near the east entrance where Minuta had previously accosted law enforcement officers. Minuta is wearing the same tactical goggles and black baseball hat as in the pictures above, and is circled in red.



Roberto Minuta's Obstructive Actions After January 6, 2021

34. On January 6, 2021, the FBI opened an investigation into the attack on the Capitol, and a grand jury of the United States District Court for the District of Columbia subsequently opened an investigation. Within the first week of the investigation, a number of subjects were arrested and many more subjects' photographs were shared over the Internet by both the FBI and regular citizens who took it upon themselves to publicize and seek information about the Capitol attackers.

35. Records indicate that Roberto Minuta opened a Facebook account associated with phone number XXX-XXX-4147 (known to be associated with Minuta) on November 24, 2007. On January 13, 2021—one week after Minuta and others attacked the Capitol on January 6—Minuta deleted his account.

CONCLUSIONS OF AFFIANT

36. Based on the foregoing, I submit that there is probable cause to believe that Roberto A. Minuta committed violations of 18 U.S.C. §§ 2, 1512(c)(1), 1512(c)(2), and 1752(a)(1), (2).

37. As such, I respectfully request that the Court permit the filing of this Complaint.



SPECIAL AGENT MARC ESPOSITO
FEDERAL BUREAU OF INVESTIGATION

Subscribed and sworn via telephone pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3), February 24, 2021.

HON. ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE